

Internal Revenue bulletin

Bulletin No. 1998-23
June 8, 1998

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Proc. 98-31, page 9.

This procedure provides the domestic asset/liability percentages and domestic investment yield percentages that are necessary for foreign companies conducting insurance business in the United States to compute their minimum effectively connected net investment income.

EXEMPT ORGANIZATIONS

Announcement 98-50, page 20.

A list is given of organizations now classified as private foundations.

ADMINISTRATIVE

Rev. Proc. 98-36, page 10.

Magnetic Media/Electronic Filing Program; Form 1040NR. Participants in the Magnetic Media/Electronic Filing Program for Form 1040NR, U.S. Nonresident Alien Income Tax Return, are informed of their obligations to the Internal Revenue Service, taxpayers, and other participants. Rev. Proc. 97-28 superseded.

Announcement 98-45, page 18.

The Service announces an optional method of reporting make-up contributions to certain pension plans by employers subject to the Uniformed Services Employment and Reemployment Rights Act (USERRA). An employer may provide a separate statement to its employees showing USERRA information instead of reporting this information on Form W-2.

Announcement 98-47, page 5.

The United States recently exchanged instruments of ratification for new income tax treaties with Austria, Ireland, South Africa, Switzerland, Thailand, and Turkey and a protocol to the treaty with Canada. This announcement provides supplemental tables of income tax rates for certain types of income under these treaties.

Announcement 98-49, page 19.

This announcement provides the Information Reporting Seminars Schedule that is published each year to inform the public where the seminars for magnetic media/electronic filing are being held and the telephone numbers they may call to register. The agenda for the day is also included. A new schedule is established each year.

Finding Lists begin on page 27.

Announcement of the Consent Voluntary Suspension of Attorneys, Certified Public Accounts, Enrolled Agents, etc., begins on page 23.

Announcement of the Expedited Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries from Practice before the Internal Revenue Service begins on page 24.



Department of the Treasury
Internal Revenue Service

Mission of the Service

The purpose of the Internal Revenue Service is to collect the proper amount of tax revenue at the least cost; serve the public by continually improving the quality of our prod-

ucts and services; and perform in a manner warranting the highest degree of public confidence in our integrity, efficiency, and fairness.

Statement of Principles of Internal Revenue Tax Administration

The function of the Internal Revenue Service is to administer the Internal Revenue Code. Tax policy for raising revenue is determined by Congress.

With this in mind, it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various Code provisions in light of the Congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Service, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he or she is "protecting the revenue." The revenue is properly protected only when we ascertain and apply the true meaning of the statute.

The Service also has the responsibility of applying and administering the law in a reasonable, practical manner. Issues should only be raised by examining officers when they have merit, never arbitrarily or for trading purposes. At the same time, the examining officer should never hesitate to raise a meritorious issue. It is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Service position.

Administration should be both reasonable and vigorous. It should be conducted with as little delay as possible and with great courtesy and considerateness. It should never try to overreach, and should be reasonable within the bounds of law and sound administration. It should, however, be vigorous in requiring compliance with law and it should be relentless in its attack on unreal tax devices and fraud.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents of a permanent nature are consolidated semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and proce-

dures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

With the exception of the Notice of Proposed Rulemaking and the disbarment and suspension list included in this part, none of these announcements are consolidated in the Cumulative Bulletins.

The first Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis and are published in the first Bulletin of the succeeding semiannual period, respectively.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 6012.—Persons Required To Make Returns of Income

26 CFR 1.6012-5: Composite return in lieu of specified form.

For the requirements for participation in the Magnetic Media/Electronic Filing Program for Form 1040NR, see Rev. Proc. 98-36, page 10.

Section 6061.—Signing of Returns and Other Documents

26 CFR 1.6061-1: Signing of returns and other documents by individuals.

For the requirements for participation in the Magnetic Media/Electronic Filing Program for Form 1040NR, see Rev. Proc. 98-36, page 10.

Part II. Treaties and Tax Legislation

Subpart A.—Tax Conventions

Supplemental Tables of Income Tax Rates and Exempt Personal Service Income Under New Income Tax Treaties and Protocols

Announcement 98-47

The United States recently exchanged instruments of ratification for new income tax treaties with the following countries. This table shows the effective dates of those new treaties.

Country	For taxes withheld at source, the treaty is effective for amounts paid or credited on or after...	For other taxes, the treaty is effective for tax years beginning on or after...
Austria*	April 1, 1998	January 1, 1999
Ireland*	January 1, 1998	January 1, 1998
South Africa	January 1, 1998	January 1, 1998
Switzerland*	February 1, 1998	January 1, 1998
Thailand	June 1, 1998	January 1, 1998
Turkey	January 1, 1998	January 1, 1998

*Replaces existing treaty.

Canada. The United States also recently exchanged instruments of ratification for a new protocol with Canada. The protocol changes the taxation of social security benefits (including tier 1 railroad retirement benefits but not including unemployment benefits). Beginning January 1, 1998, tax will not be withheld from these benefits. In addition, Canadian residents can request refunds of U.S. tax withheld for 1996 and 1997 from the Canadian government. Contact Revenue Canada for information on the refund procedure.

Tables. The Internal Revenue Service prepared Tables 1 and 2 below, as an aid in determining the taxability of certain types of income under the treaties. Table 1 lists tax rates for investment income such as dividends, interest, and royalties. Table 2 lists the different kinds of personal service income that may be fully or partially exempt from U.S. tax.

These tables are similar in format to Tables 1 and 2 in the 1997 editions of Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Corporations*, and Publication 901, *U.S. Tax Treaties*. Taxpayers and withholding agents may use these tables until the Service revises Publications 515 and 901.

National Director,
Tax Forms and
Publications Division
T:FS:FP

Table 1. Tax Rates on Income Other Than Personal Service Income Under Chapter 3, Internal Revenue Code, and Income Tax Treaties

Income Code Number		1	2	3	6	7	9	10	11	12	13	14	21	
Country of Residence of Payee		Interest Paid by U.S. Obligors General ^d	Interest on Real Property Mortgages ^u	Interest Paid to Controlling Foreign Corporations ^d	Dividends Paid by		Capital Gains ^c	Industrial Royalties ^d	Copyright Royalties			Real Property Income and Natural Resources Royalties	Pensions and Annuities	Social Security Payment
Name	Code				U.S. Corporations General ^{a,b,d}	U.S. Subsidiaries to Foreign Parent Corporations ^d			Motion Pictures and Television ^d	Other ^d				
Austria	AU	0 ^p	0 ^p	0 ^p	15 ^e	5 ^e	0 ^{d,g}	0	10	0	30	0	30	
Ireland	EL	0	0	0	15 ^e	5 ^e	0 ^{d,g}	0	0	0	30	0 ^{h,i}	0	
So. Africa	SF	0 ^p	0 ^p	0 ^p	15 ^e	5 ^e	0 ^g	0	0	0	30	15 ^{h,m,n}	30	
Switzerland	SZ	0 ^a	0 ^q	0 ^q	18 ^e	5 ^e	0 ^g	0	0	0	30	0 ^h	15	
Thailand	TH	15 ^f	15 ^f	15 ^f	15 ^e	10 ^e	30	8 ^k	5	15 ^o	30	0 ^{h,i}	30	
Turkey	TU	15 ^{i,r}	15 ^{i,r}	15 ^{i,r}	20 ^e	15 ^e	0 ^{d,g}	5 ^k	10	10	30	0 ^h	30	

^a Under some treaties, the reduced rates of withholding may not apply to a foreign corporation unless a minimum percentage of its owners are citizens or residents of the United States or the treaty country.

^b No U.S. tax is imposed on a percentage of any dividend paid by a U.S. corporation that received at least 80% of its gross income from an active foreign business for the 3-year period before the dividend is declared. (See sections 871(b)(2)(B) and 881(d) of the Internal Revenue Code.)

^c Withholding at a different rate may be required on the disposition of a U.S. real property interest. See Publication 515.

^d The exemption or reduction in rate does not apply if the recipient has a permanent establishment in the United States and the property giving rise to the income is effectively connected with this permanent establishment. The exemption or reduction in rate also does not apply if the property giving rise to the income is effectively connected with a fixed base in the United States from which the recipient performs independent personal services. Even with the treaty, if the income is not effectively connected with a trade or business in the United States, the recipient will be considered as not having a permanent establishment in the United States under section 894(b) of the Internal Revenue Code.

^e The rate in column 6 applies to dividends paid by a regulated investment company (RIC) or real estate investment trust (REIT). However, that rate applies to dividends paid by a REIT only if the beneficial owner of the dividends is an individual holding less than a 10% interest (25% in the case of Thailand) in the REIT.

^f The rate is 10% if the interest is paid on a loan granted by a bank or similar financial institution. For Thailand, the rate is 10% on interest arising from a sale on credit of equipment, merchandise, or services (provided the transaction is an arm's length transaction).

^g Exemption does not apply to gains from the sale of real property.

^h Exemption does not apply to U.S. government (federal, state, or local) pensions and annuities; a 30% rate applies to these pensions and annuities. A U.S. government pension paid to an individual who is a resident and national of the treaty country is exempt from tax.

ⁱ Includes alimony.

^j Exemption or reduced rate does not apply to an excess inclusion for a residual interest in a real estate mortgage investment conduit (REMIC).

^k This is the rate for royalties for the use of, or the right to use, industrial, commercial, and scientific know-how is subject to the rate in column 12. The rate for royalties for information concerning industrial, commercial, and scientific know-how is subject to the rate in column 12.

^l Applies to 85% of the social security payments received from the U.S. government. The effective rate on the total social security payments received is 85% of the rate shown in the table. These rates also apply to the social security equivalent portion of tier 1 railroad retirement benefits (income code 22) received from the U.S. The remainder of tier 1, all of tier 2, dual, and supplemental railroad retirement benefits (income code 23) are taxed as shown in column 14 of this table.

^m Annuities that were purchased while the annuitant was not a resident of the United States are not taxable in the United States.

ⁿ The reduced rate applies if the distribution is not subject to a penalty for early withdrawal.

^o The rate is 5% for royalties on the use of any copyright of literary, artistic, or scientific work, including software.

^p The rate is 15% for contingent interest that does not qualify as portfolio interest. Generally, this is interest based on receipts, sales, income, or changes in the value of property.

^q The exemption does not apply to contingent interest that does not qualify as portfolio interest. Generally, this is interest based on receipts, sales, income, or changes in the value of property.

^r Contingent interest that does not qualify as portfolio interest is treated as a dividend and is subject to the rates under income codes 6 and 7, as appropriate.

Table 2. Compensation for Personal Services Performed in United States Exempt From Withholding and U.S. Income Tax Under Income Tax Treaties

Country (1)	Code' (2)	Category of Personal Services		Maximum Presence in U.S. (4)	Required Employer or Payer (5)	Maximum Amount of Compensation (6)	Treaty Article Citation (7)
		Purpose (3)					
Austria	16	Independent personal services ²	No limit	Any contractor	No limit	No limit	14
	20	Public entertainment ⁷					
	17	Dependent personal services ⁵					
	20	Public entertainment ⁷					
Ireland	19	Studying and training: ¹⁰	183 days	Any foreign resident	No limit	No limit	20
		Remittances and allowances					
	16	Independent personal services ²					
	20	Public entertainment ⁷					
So. Africa	17	Dependent personal services ^{5,11}	183 days	Any foreign resident	No limit	No limit	17
	20	Public entertainment ⁷					
	20	Public entertainment ⁷					
	19	Studying and training: ¹⁰					
Switzerland		Remittances and allowances	1 years ¹⁴	Any foreign resident	No limit	No limit	20
	16	Independent personal services ^{2,7}					
	20	Public entertainment ⁷					
	17	Dependent personal services ^{5,11}					
Thailand	20	Public entertainment ⁷	No limit	Any foreign resident	No limit	No limit	20
	17	Dependent personal services ^{5,16}					
	20	Public entertainment ⁷					
	18	Teaching or research ^{6,9}					
Turkey	19	Studying and training: ¹⁰	12 consec. mos.	Thai resident ¹⁸	\$7,500	No limit	20(2)
		Remittances and allowances					
	16	Independent personal services ²					
	20	Public entertainment ⁷					
Thailand	15	Scholarship fellowship grant	5 years	Any U.S. or foreign resident ¹⁹	No limit	No limit	22(1)
	16	Independent personal services ^{2,7}					
	20	Public entertainment ⁷					
	17	Dependent personal services ^{5,16}					
Turkey	20	Public entertainment ⁷	183 days	Any foreign resident	No limit	No limit	19
	17	Dependent personal services ^{5,17}					
	20	Public entertainment ^{7,21}					
	18	Teaching or research ¹⁰					
Thailand	19	Studying and training: ¹⁰	2 years	Any U.S. or foreign resident	No limit	No limit	23
		Remittances and allowances					
	16	Independent personal services ²					
	20	Public entertainment ^{7,21}					
Turkey	17	Dependent personal services ^{5,17}	5 years	Any foreign resident	No limit	No limit	22(1)
	20	Public entertainment ^{7,21}					
	18	Teaching or research ¹⁰					
	19	Studying and training: ¹⁰					
Thailand		Remittances and allowances	1 year	U.S. Government	\$10,000 ¹²	No limit	22(3)
	16	Independent personal services ²					
	20	Public entertainment ⁷					
	17	Dependent personal services ^{5,11}					
Turkey	20	Public entertainment ⁷	183 days	Any contractor	No limit	No limit	14
	18	Teaching or research ¹⁰					
	19	Studying and training: ¹⁰					
		Remittances and allowances					

- ¹ Refers to income codes described in Publication 515 and to be reported on Forms 1042-S.
- ² Exemption does not apply to the extent income is attributable to the recipient's fixed U.S. base.
- ³ Exemption does not apply if gross receipts exceed this amount.
- ⁴ Exemption does not apply if gross receipts, including reimbursements, exceed this amount during the tax year.
- ⁵ Exemption does not apply if the employee's compensation is borne by a permanent establishment or a fixed base that the employer has in the United States.
- ⁶ Does not apply to compensation for research work primarily for private benefit.
- ⁷ Withholding at 30% may be required because the factors on which the treaty exemption is based may not be determinable until after the close of the tax year. However, see the discussions on withholding agreements in Publication 515.
- ⁸ Exemption does not apply if gross receipts, including reimbursements, exceed this amount during the year. Income is fully exempt if visit to the United States is substantially supported by public funds of the treaty country or its political subdivisions or local authorities.
- ⁹ Exemption does not apply if during the immediately preceding period the individual claimed any benefit under Article 22(1).
- ¹⁰ Applies only to full-time student or trainee.
- ¹¹ Does not apply to fees of a foreign director of a U.S. corporation.

- ¹² Exemption applies only to compensation for personal services performed in connection with, or incidental to, the individual's study, research, or training.
- ¹³ The 3-year limit pertains only to an apprentice or business trainee.
- ¹⁴ The 1-year limit pertains only to an apprentice or business trainee.
- ¹⁵ A \$10,000 limit applies if the expense is borne by a permanent establishment or a fixed base in the United States.
- ¹⁶ Fees paid to a resident of Thailand for services as a director of a U.S. corporation are subject to U.S. tax, unless the services are performed in Thailand.
- ¹⁷ Fees paid to a resident of Turkey for services performed in the United States as a director of a U.S. corporation are subject to U.S. tax.
- ¹⁸ Applies only if training or experience is received from a person other than alien's employer.
- ¹⁹ Grant must be from a nonprofit organization.
- ²⁰ This provision does not apply if visit to the United States is substantially supported by public funds of the treaty country or its political subdivisions or local authorities.
- ²¹ This provision does not apply if these activities are substantially supported by a nonprofit organization of the treaty country or by public funds of the treaty country or its political subdivisions or local authorities.

Part III. Administrative, Procedural, and Miscellaneous

Rev. Proc. 98-31

SECTION 1. PURPOSE

This revenue procedure provides the domestic asset/liability percentages and domestic investment yields needed by foreign life insurance companies and foreign property and liability insurance companies to compute their minimum effectively connected net investment income under section 842(b) of the Internal Revenue Code for taxable years beginning after December 31, 1996. Instructions are provided for computing foreign insurance companies' liabilities for the estimated tax and installment payments of estimated tax for taxable years beginning after December 31, 1996. For more specific guidance regarding the computation of the amount of net investment income to be included by a foreign insurance company on its U.S. income tax return, see Notice 89-96, 1989-2 C.B. 417. For the domestic asset/liability percentage and domestic investment yield, as well as instructions for computing foreign insurance companies' liabilities for estimated tax and installment payments of estimated tax for taxable years beginning after December 31, 1995, see Rev. Proc. 97-16, 1997-5 I.R.B. 25.

SECTION 2. CHANGES

.01 DOMESTIC ASSET/LIABILITY PERCENTAGES FOR 1997. The Secretary determines the domestic asset/liability percentage separately for life insurance companies and property and liability insurance companies. For the first taxable year beginning after December 31, 1996, the relevant domestic asset/liability percentages are:

117.3 percent for foreign life insurance companies, and

174.9 percent for foreign property and liability insurance companies.

.02 DOMESTIC INVESTMENT YIELDS FOR 1997. The Secretary is required to prescribe separate domestic investment yields for foreign life insurance companies and for foreign property and liability insurance companies. For the first taxable year beginning after December 31, 1996, the relevant domestic investment yields are:

7.5 percent for foreign life insurance companies, and

5.9 percent for foreign property and liability insurance companies.

.03 SOURCE OF DATA FOR 1997. The 842(b) percentages to be used for the 1997 tax year are based on tax return data. For recent years prior to 1997, the asset/liability percentage for life insurance companies was based upon annual statement data while the domestic investment yield was based upon tax return data. Both the asset/liability percentage and the domestic investment yield for property and liability companies have been based upon tax return data for several years. The use of tax return data provides asset/liability percentages that are more consistent with the domestic investment yield that is also based on tax return data. The tax return data needed to calculate asset/liability percentages have been available for several years, however, the conversion from annual statement to tax data had been delayed until the time that the switch was favorable to taxpayers. Taxable year 1997 is the first year since the availability of tax-return based, asset/liability data that the switch would be favorable to taxpayers. All percentages for future tax years will be based on tax return data.

With regard to future updates of the section 842(b) percentages, the Service is considering the use of statistical sampling techniques to collect data from the tax returns of domestic insurance companies. The sampling technique under consideration is the same used to select insurance company tax returns in IRS Statistics Division's Publication 16. Section 3 of that publication describes the sampling procedure. The Service solicits comments addressing the use of this statistical sampling technique to calculate the section 842(b) percentages from tax data. Comments may be addressed to CC:DOM:CORP:R (Rev. Proc. 98-31), Room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, comments may be hand-delivered between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (Rev. Proc. 98-31), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC.

SECTION 3. APPLICATION—ESTIMATED TAXES

To compute estimated tax and the installment payments of estimated tax due for taxable years beginning after December 31, 1996, a foreign insurance company must compute its estimated tax payments by adding to its income other than net investment income the greater of (i) its net investment income as determined under section 842(b)(5), that is actually effectively connected with the conduct of a trade or business within the United States for the relevant period, or (ii) the minimum effectively connected net investment income under section 842(b) that would result from using the most recently available domestic asset/liability percentage and domestic investment yield. Thus, for installment payments due after the release of this revenue procedure, the domestic asset/liability percentages and the domestic investment yields provided in this revenue procedure must be used to compute the minimum effectively connected net investment income. However, if the due date of an installment is less than 20 days after the date this revenue procedure is published in the Internal Revenue Bulletin, the asset/liability percentages and domestic investment yields provided in Rev. Proc. 97-16 may be used to compute the minimum effectively connected net investment income for such installment. For further guidance in computing estimated tax, see Notice 89-96.

SECTION 4. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning after December 31, 1996.

DRAFTING INFORMATION

The principal author of this revenue procedure is Roger M. Brown of the Office of the Associate Chief Counsel (International). For further information regarding this revenue procedure, please contact Mr. Brown at (202) 622-3870 (not a toll-free call), or write to the Internal Revenue Service, Office of the Associate Chief Counsel (International), 1111 Constitution Avenue, NW, Washington, DC

26 CFR 601.602 : Tax forms and instructions.
(Also Part I, sections 6012, 6061; 1.6012-5,
1.6061-1.)

Rev. Proc. 98-36

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SECTION 1. PURPOSE

This revenue procedure informs those who participate in the Magnetic Media/Electronic Filing Program for Form 1040NR, U.S. Nonresident Alien Income Tax Return (“1040NR Program”), of their obligations to the Internal Revenue Service, taxpayers, and other participants. This revenue procedure updates and supersedes Rev. Proc. 97-28, 1997-1 C.B. 691.

SECTION 2. BACKGROUND AND CHANGES

.01 Section 1.6012-5 of the Income Tax Regulations provides that the Commissioner may authorize the use, at the option of a person required to make a return, of a composite return in lieu of any form specified in 26 CFR Part 1 (Income Tax), subject to the conditions, limitations, and special rules governing the preparation, execution, filing, and correction thereof as the Commissioner may deem appropriate.

.02 For purposes of this revenue procedure, a magnetically or electronically filed Form 1040NR is a composite return consisting of data submitted on magnetic tape, floppy disk, or via modem (the “data portion”), and certain paper documents (the “paper portion”). The paper portion of the return consists of a Form 8453-NR, U.S. Nonresident Alien Income Tax Declaration for Magnetic Media Filing, and other paper documents that cannot be filed magnetically or electronically. Form 8453-NR must be received by the Service before any composite return is complete (see section 5.07 of this revenue procedure). A composite return must contain the same information that a return filed completely on paper contains. See section 7 of this revenue procedure for procedures for completing Form 8453-NR.

.03 The Magnetic Media Project Office (“Project Office”, see section 17 of this revenue procedure for the address and telephone numbers) will periodically issue a list of the forms and schedules that can be magnetically or electronically filed.

.04 A Form 1040NR with a zero balance, balance due, or refund due may be magnetically or electronically filed.

.05 A 1997 Form 1040NR cannot be filed magnetically or electronically after

December 4, 1998, notwithstanding the fact that the taxpayer has been granted an extension to file beyond that date. Form 2688, Application for Additional Extension of Time To File U.S. Individual Income Tax Return, cannot be filed magnetically or electronically under the 1040NR Program.

.06 An amended tax return cannot be filed magnetically or electronically under the 1040NR Program. A taxpayer must file an amended tax return on paper in accordance with the instructions for Form 1040X, Amended U.S. Individual Income Tax Return.

.07 Upon request, the Project Office will provide technical information (file specifications, record layouts, and testing procedures) for filing Form 1040NR magnetically or electronically.

.08 This revenue procedure updates and supersedes Rev. Proc. 97-28. The updates include changes in the 1040NR Program, clarification of prior 1040NR Program statements, and additional guidance derived from other Service documents that relate to the 1040NR Program. Some of the updates are:

(1) a 1997 Form 1040NR cannot be filed magnetically or electronically after December 4, 1998, notwithstanding the fact that the taxpayer has been granted an extension to file beyond that date (section 2.05); and

(2) the complete paper copy of the return furnished to the taxpayer need not include the social security number of the paid preparer (section 8.01).

SECTION 3. 1040NR PROGRAM PARTICIPANTS—DEFINITIONS

.01 After acceptance into the 1040NR Program, as described in section 4 of this revenue procedure, a participant is referred to as a “1040NR Filer.”

.02 The 1040NR Filer categories are:

(1) 1040NR RETURN ORIGINATOR. A “1040NR Return Originator” is: (a) a “1040NR Return Preparer” who prepares tax returns, including Forms 8453-NR, for taxpayers who intend to have their returns magnetically or electronically filed; and/or (b) a “1040NR Return Collector” who accepts completed tax returns, including Forms 8453-NR, from taxpayers who intend to have their returns magnetically or electronically filed.

(2) **SERVICE BUREAU.** A "Service Bureau" receives tax return information on any media from a 1040NR Return Originator, formats the return information, and either (a) sends back the return information to the 1040NR Return Originator, or (b) forwards the return information to a Transmitter. A Service Bureau may send Forms 8453-NR to the Service.

(3) **SOFTWARE DEVELOPER.** A "Software Developer" develops software for the purposes of (a) formatting returns according to the Service's magnetic or electronic return filing specifications; and/or (b) filing returns magnetically or electronically directly with the Service. A Software Developer may also sell its software.

(4) **TRANSMITTER.** A "Transmitter" sends the data portion of a return directly to the Service.

.03 The 1040NR Filer categories are not mutually exclusive. For example, a 1040NR Return Originator can, at the same time, be considered a Transmitter, Software Developer, or Service Bureau depending on the function(s) performed.

SECTION 4. ACCEPTANCE INTO THE 1040NR PROGRAM

.01 Except as provided in sections 4.02 and 4.03 of this revenue procedure, a 1040NR Filer that has participated in the most recent 1040NR Program does not have to reapply to participate in the 1040NR Program. However, a 1040NR Filer that intends to function as a Transmitter or a Software Developer in the 1040NR Program must first successfully complete the testing referred to in section 4.06 of this revenue procedure. In addition, section 4.07 of this revenue procedure provides for the Service's issuance of credentials necessary for participation in the 1040NR Program.

.02 Applicants and 1040NR Filers must file a new Form MAR-8980, Application for Electronic/Magnetic Media Filing of Form 1040NR, with the Project Office if:

(1) the applicant has never participated in the 1040NR Program;

(2) the applicant has previously been denied participation in the 1040NR Program; or

(3) the applicant has been suspended from the 1040NR Program.

.03 To participate in the 1040NR Program, a 1040NR Filer in the most recent

1040NR Program must submit to the Project Office either a revised Form MAR-8980, or a letter containing the same information contained in the revised Form MAR-8980, if there is any change to the following information:

(1) the Firm name or Doing Business As (DBA) name;

(2) the business or mailing address;

(3) the contact person's name or telephone number; or

(4) the 1040NR Filer category.

.04 Applications described in this section 4.02 may be submitted at any time during the year.

.05 Revised applications described in this section 4.03 must be submitted within 30 days of the change(s) reflected on the revised Form MAR-8980 or in the letter.

.06 A 1040NR Filer may not submit tax returns under the 1040NR Program until 30 days after it has successfully completed the necessary testing administered by the Project Office.

.07 The Service will issue credentials to eligible applicants, 1040NR Filers that do not have to reapply pursuant to section 4.01 of this revenue procedure, and 1040NR Filers that comply with section 4.02 or 4.03 of this revenue procedure, provided they have first satisfactorily completed the testing described in section 4.06 of this revenue procedure if they intend to function as a Transmitter or Software Developer. No one may participate in the 1040NR Program without the following credentials:

(1) a letter of acceptance into the 1040NR Program; and

(2) a Magnetic Tape 1040NR Filer Identification Number (MTFIN).

.08 The following reasons may result in rejection of an application to participate in the 1040NR Program (this list is not all-inclusive):

(1) conviction of any criminal offense under the revenue laws of the United States, or of any offense involving dishonesty or breach of trust;

(2) failure to timely and accurately file tax returns, including returns indicating that no tax is due;

(3) failure to timely pay any tax liabilities;

(4) assessment of tax penalties;

(5) suspension/disbarment from practice before the Service;

(6) disreputable conduct or other facts that would reflect adversely on the 1040NR Program;

(7) misrepresentation on an application;

(8) suspension or rejection from the 1040NR Program in a prior year;

(9) unethical practices in return preparation;

(10) stockpiling returns prior to official acceptance into the 1040NR Program (see section 5.10 of this revenue procedure);

(11) knowingly and directly or indirectly employing or accepting assistance from any firm, organization, or individual that is prohibited from applying to participate in the 1040NR Program (see section 13.09 of this revenue procedure) or that is suspended from participating in that Program (see section 12.07 of this revenue procedure). This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the 1040NR Program; or

(12) knowingly and directly or indirectly accepting employment as an associate, correspondent, or as a subagent from, or sharing fees with, any firm, organization, or individual that is prohibited from applying to participate in the 1040NR Program (see section 13.09 of this revenue procedure) or that is suspended from participating in that Program (see section 12.07 of this revenue procedure). This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the 1040NR Program.

SECTION 5. RESPONSIBILITIES OF A 1040NR FILER

.01 To ensure that complete returns are accurately and efficiently filed, a 1040NR Filer must comply with all publications and notices of the Service related to magnetic or electronic filing. Currently, these publications and notices include:

(1) Procedures for Magnetic Media Filing of U.S. Nonresident Alien Income Tax Returns, Form 1040NR (available from the Project Office);

(2) File Specifications and Record Layouts for Magnetic Media Filing of U.S. Nonresident Alien Income Tax Returns, Form 1040NR (available from the Project Office); and

(3) Postings to the Electronic Filing System Bulletin Board (EFS Bulletin Board).

.02 A 1040NR Filer must maintain a high degree of integrity, compliance, and accuracy.

.03 A 1040NR Filer may accept returns for magnetic or electronic filing only from the taxpayer filing the return, a representative of the taxpayer filing the return, or from another 1040NR Filer.

.04 If a 1040NR Filer charges a fee for the submission of a magnetically or electronically filed tax return, the fee may not be based on a percentage of the refund amount or any other amount from the tax return. A 1040NR Filer may not charge a separate fee for Direct Deposit. See section 9 of this revenue procedure for a discussion of Direct Deposit.

.05 A 1040NR Filer must submit a revised Form MAR-8980 to the Project Office within 30 days of when any of the conditions or changes described in section 4.03 of this revenue procedure occur.

.06 A 1040NR Filer must notify the Project Office within 30 days of discontinuing its participation in the 1040NR Program. This does not preclude reapplication in the future.

.07 A 1040NR Filer must ensure that it promptly processes returns submitted to it for magnetic or electronic filing. See sections 5.10, 5.16, and 5.17 of this revenue procedure. However, a 1040NR Filer that receives a return for magnetic or electronic filing on or before the due date of the return must ensure that the return is filed on or before that due date (including extensions, see section 5.08 of this revenue procedure). A composite return is not considered filed until the data portion of the tax return is acknowledged by the Service as accepted for processing and a completed and signed Form 8453-NR is received by the Service. However, if the data portion of a return is successfully transmitted on or shortly before the due date and the 1040NR Filer complies with section 7.01 of this revenue procedure, the return will be deemed timely filed. If the data portion of a return is transmitted on or shortly before the due date but is ultimately rejected, the return will be deemed timely filed if the 1040NR Filer and the taxpayer comply with section 5.14 of this revenue procedure. In the case of a balance due return, see section

10 of this revenue procedure for instructions on how to make a timely payment of tax.

.08 Unless the Service grants an extension of time to file, a 1040NR Filer must ensure that the return for any individual is received by the Service on or before:

(1) April 15 if the individual was an employee and received wages subject to U.S. federal income tax withholding; or

(2) June 15 if the individual did not receive such wages.

However, section 2.05 of this revenue procedure provides that a composite return cannot be filed after December 4, 1998.

.09 A 1040NR Filer must ensure against the unauthorized use of its MTFIN. A 1040NR Filer must not transfer its MTFIN by sale, merger, loan, gift, or otherwise to another entity.

.10 A 1040NR Filer is responsible for ensuring that stockpiling does not occur. Prior to official acceptance of the 1040NR Filer into the 1040NR Program, stockpiling means collecting returns from taxpayers. After official acceptance, stockpiling means:

(1) in the case of a 1040NR Return Originator, waiting for more than three calendar days after receiving the necessary information to submit a return to a Transmitter or Service Bureau, or

(2) in the case of a Transmitter, waiting for more than ten calendar days after receiving the necessary information to send the data portion of the return to the Service.

.11 A 1040NR Filer that functions as a Return Originator must:

(1) comply with the procedures for completing Form 8453-NR described in section 7 of this revenue procedure;

(2) comply with the procedures described in section 10 of this revenue procedure for handling a balance due return;

(3) furnish the taxpayer with a copy of the signed Form 8453-NR (except for multiple return filing as described in section 7.01(5) of this revenue procedure) and, in the case of a prepared or corrected return, a copy of the paper portion of the return;

(4) while returns are being filed, retain and, if requested, make available to the Service the following material at the business address from which a return was accepted for magnetic or electronic filing:

(a) a copy of the signed Form 8453-NR, paper copies of Forms W-2, Wage and Tax Statement, W-2G, Certain Gambling Winnings, 1099-R, Distributions From Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc., and the paper portion of the taxpayer's return;

(b) a complete copy of the data portion of the taxpayer's return (may be retained on computer media) that can be readily and accurately converted into magnetic or electronic data that the Service can process; and

(c) the acknowledgement file received from the Service or from a Transmitter;

(5) retain until the end of the calendar year in which a return was filed and make available to the Service upon request the materials described in section 5.11(4) of this revenue procedure, at the business address from which a return was accepted for magnetic or electronic filing or from the contact person named on Form MAR-8980.

.12 A 1040NR Return Originator who is the paid preparer of a magnetically or electronically filed Form 1040NR must also retain for the prescribed amount of time the materials described in § 1.6107-1(b) that are required to be kept by an income tax return preparer.

.13 A 1040NR Return Originator must identify the paid preparer (if any) in the appropriate field of the data portion of the return, in addition to ensuring that the paid preparer signed Form 8453-NR. If Form 8453-NR is not signed by the paid preparer, the 1040NR Return Originator must attach a copy of the Form 1040NR originally signed by the paid preparer. This copy must be marked "COPY-DO NOT PROCESS" to prevent duplicate filings.

.14 If the data portion of a taxpayer's return is acknowledged as rejected by the Service, and the reason for the rejection cannot be rectified by making nonsubstantive changes as described in section 6.02(3) of this revenue procedure, the 1040NR Return Originator, within 24 hours of receiving the rejection, must take all reasonable steps to tell the taxpayer that the taxpayer's return has not been filed. If the taxpayer chooses to have the data portion of the return resubmitted magnetically or electronically, and the 1040NR Return Originator successfully

works with the Project Office to correct the problems causing the data portion of the return to be rejected, the return will be accepted as timely filed. A new Form 8453–NR may be required (see section 7 of this revenue procedure). However, even when no new Form 8453–NR is required, the Transmitter must submit a photocopy of the original Form 8453–NR with the rejected file or return and mark the photocopy “Retransmitted.” If the Project Office determines that the data portion of a return cannot be accepted for processing or the taxpayer chooses not to have the rejected data portion of the return resubmitted magnetically or electronically, the taxpayer must file a paper return by the later of:

- (1) the due date (with regard to any extensions of time to file) of the return; or
- (2) ten calendar days after the Service gives notification that the data portion of the return is rejected or that the data portion of the return cannot be accepted for processing.

The paper return should include an explanation of why the return is being filed after the due date.

.15 A 1040NR Return Originator must use the taxpayer’s address in the data portion of the return. In addition, a 1040NR Return Originator must not put its address as the taxpayer’s address in the data portion of the return.

.16 A 1040NR Filer that functions as a Service Bureau must:

- (1) deliver all data portions of composite returns to a Transmitter or return them to the 1040NR Return Originator who gave the data portions of the returns to the Service Bureau within three calendar days of receipt;
- (2) retrieve the acknowledgement file from the Transmitter within one calendar day of receipt by the Transmitter;
- (3) send the acknowledgement file to the 1040NR Return Originator (whether related or not) within one work day of retrieving the acknowledgement file;
- (4) if the Service Bureau processes Forms 8453–NR, send back to the 1040NR Return Originator any return and Form 8453–NR that needs correction, unless the correction is described in section 7.02(1) of this revenue procedure;
- (5) accept tax return information only from 1040NR Filers;
- (6) include its MTFIN and the 1040NR Return Originator’s MTFIN with

all return information the Service Bureau forwards to a Transmitter or sends back to the 1040NR Return Originator;

(7) retain each acknowledgement file received from a Transmitter until the end of the calendar year in which the composite return was filed;

(8) if requested, serve as a contact point between its client 1040NR Return Originator and the Service; and

(9) if requested, provide the Service with a list of each client 1040NR Return Originator.

.17 A 1040NR Filer that functions as a Transmitter must:

(1) send to the Service all data portions of composite returns within ten calendar days of receipt;

(2) match the acknowledgement file to the original transmission file and send the acknowledgement file to the 1040NR Return Originator or the Service Bureau (whether or not the 1040NR Return Originator or the Service Bureau are related to the Transmitter) within five calendar days after receipt of the acknowledgement file from the Service;

(3) retain an acknowledgement file received from the Service until the end of the calendar year in which the composite return was filed;

(4) immediately contact the Project Office for further instructions if an acknowledgement of acceptance for processing has not been received by the Transmitter within 14 calendar days of transmission, or if a Transmitter receives an acknowledgement for a return that was not transmitted on the designated transmission;

(5) promptly correct any transmission error that causes a data portion of a composite return to be rejected;

(6) contact the Project Office for assistance if a data portion of a composite return has been rejected after three transmission attempts; and

(7) ensure the security of all transmitted data.

.18 A Transmitter that provides transmission services to another 1040NR Filer must, in addition to the items covered in section 5.17 of this revenue procedure, also:

(1) accept composite returns for transmission to the Service only from an accepted 1040NR Filer; and

(2) use its assigned MTFIN when filing returns.

.19 A 1040NR Filer that functions as a Software Developer must:

(1) promptly correct any software error that causes a data portion of a composite return to be rejected;

(2) promptly distribute any software correction made to its software packages to all 1040NR Filers utilizing these packages; and

(3) not incorporate into its software a Service-assigned production password.

.20 In addition to the specific responsibilities described in this section, a 1040NR Filer must meet all the requirements in this revenue procedure to keep the privilege of participating in the 1040NR Program.

SECTION 6. PENALTIES

.01 Penalties for Disclosure or Use of Information.

(1) A 1040NR Filer, except a Software Developer, is a tax return preparer (“Preparer”) under the definition of § 301.7216–1(b) of the Regulations on Procedure and Administration. A Preparer is subject to a criminal penalty for unauthorized disclosure or use of tax return information. See § 7216 of the Internal Revenue Code and § 301.7216–1(a). In addition, § 6713 establishes civil penalties for unauthorized disclosure or use of tax return information.

(2) Under § 301.7216–2(h), disclosure of tax return information among accepted 1040NR Filers for the purpose of preparing a return is permissible. For example, a 1040NR Return Originator may pass on tax return information to a Service Bureau and/or a Transmitter for the purpose of having the data portion of a composite return formatted and sent to the Service. However, if the tax return information is disclosed or used in any other way, a Service Bureau and/or a Transmitter may be subject to the penalties described in section 6.01(1) of this revenue procedure.

.02 Other Preparer Penalties.

(1) Preparer penalties may be asserted against an individual or firm who meets the definition of an income tax return preparer under §§ 7701(a)(36) and 301.7701–15. Preparer penalties that may be asserted under appropriate circumstances include, but are not limited to, those set forth in §§ 6694, 6695, and 6713.

(2) Under § 301.7701-15(d), 1040NR Return Collectors, Service Bureaus, Software Developers, and Transmitters are not income tax return preparers for the purpose of assessing most preparer penalties as long as their services are limited to “typing, reproduction, or other mechanical assistance in the preparation of a return or claim for refund.”

(3) If a 1040NR Return Collector, Service Bureau, Software Developer, or Transmitter alters the return information in a nonsubstantive way, this alteration will be considered to come under the “mechanical assistance” exception described in § 301.7701-15(d)(1). A nonsubstantive change is a correction or change limited to a transposition error, misplaced entry, spelling error, or arithmetic correction that falls within one of the following tolerances:

(a) the “Total tax”, “Total payments”, “Refund”, or “Amount you owe” on Form 8453-NR differs from the corresponding amount on the data portion of the composite return by no more than \$7;

(b) the “Total effectively connected income” amount shown on Form 8453-NR differs from the corresponding amount on the data portion of the composite return by no more than \$25; or

(c) dropping cents and rounding to whole dollars.

(4) If a 1040NR Return Collector, Service Bureau, or Transmitter alters the return information in a substantive way, rather than having the taxpayer alter the return, the 1040NR Return Collector, Service Bureau, or Transmitter will be considered to be an income tax return preparer for purposes of § 7701(a)(36).

(5) If a 1040NR Return Collector, Service Bureau, Transmitter, or the product of a Software Developer, goes beyond mechanical assistance, any of these parties may be held liable for income tax return preparer penalties. See Rev. Rul. 85-189, 1985-2 C.B. 341, (which describes a situation where a Software Developer was determined to be an income tax return preparer and subject to certain preparer penalties).

.03 Other Penalties. In addition to the above specified provisions, the Service reserves the right to assert all appropriate civil and criminal penalties, including preparer, nonpreparer, and disclosure penalties, against a 1040NR Filer as warranted under the circumstances.

SECTION 7. FORM 8453-NR, U.S. NONRESIDENT ALIEN INCOME TAX DECLARATION FOR MAGNETIC MEDIA FILING

.01 Procedures for Completing Form 8453-NR.

(1) Form 8453-NR must be completed in accordance with the instructions for Form 8453-NR.

(2) The taxpayer’s name, taxpayer identification number, tax return information, and direct deposit of refund information in the data portion of the composite return must be identical to the information on the Form 8453-NR signed by the taxpayer (or by the taxpayer’s authorized representative as described in section 7.01(5) of this revenue procedure) and provided for submission to the Service.

(3) A 1040NR Filer, a financial institution, or any other entity associated with the magnetic or electronic filing of a taxpayer’s return must not put its address on Form 8453-NR or anywhere in the data portion of a return.

(4) Except for multiple return filing as described in section 7.01(5) of this revenue procedure, after the composite return has been prepared and before the return is submitted, the taxpayer must verify the information on the data portion of the composite return and on Form 8453-NR, and must sign Form 8453-NR.

(5) A 1040NR Filer must submit a Form 8453-NR to the Project Office with each magnetically or electronically filed return. A single Form 8453-NR (inscribed with the language “See attached Multiple Return Information Listing”) may be used for a multiple return filing if the person who signs Form 8453-NR has authorization, either by a specific power of attorney or as a responsible representative or agent under § 1.6012-3(b), to sign each of the returns included in the multiple return filing. A person who makes a multiple return filing must attach to Form 8453-NR an information page(s) titled “Form 8453-NR for Multiple Returns—Tax Return Information Listing” at the top of the pages(s). Below the title, the multiple return 1040NR Filer must provide his or her name and address. The next item on the page(s) must be a list that includes every taxpayer’s name control, taxpayer identification number, and the information shown on lines one through five on Form 8453-NR, for each return included in a multiple return filing.

(6) If a 1040NR Filer functions as a 1040NR Return Originator, the 1040NR Filer must sign the 1040NR Return Originator’s Declaration on Form 8453-NR.

(7) If the 1040NR Filer is also the paid preparer, the 1040NR Filer must check the “Paid Preparer” box and sign the 1040NR Return Originator Declaration on Form 8453-NR.

.02 Corrections to Form 8453-NR.

(1) A new form 8453-NR is not required for a nonsubstantive change. A nonsubstantive change is limited to a correction that does not exceed the tolerances, described in section 7.02(2) of this revenue procedure for arithmetic errors, a transposition error, a misplaced entry, or a spelling error. The incorrect nonsubstantive information must be neatly lined through on the Form 8453-NR and the correct data entered next to the lined through entry. Also the individual making the correction must initial the correction.

(2) The tolerances for section 7.02(1) of this revenue procedure are:

(a) the “Total effectively connected income” differs from the amount on the data portion of the composite return by more than \$25; or

(b) the “Total tax”, the “Total payments”, the “Refund”, or the “Amount you owe” differs from the amount on the data portion of the composite return by more than \$7.

(3) If the 1040NR Return Originator makes a substantive change to the data portion of the return after Form 8453-NR has been signed by the taxpayer, but before it is transmitted to the Service, the 1040NR Return Originator must have all the necessary parties described above sign a new Form 8453-NR that reflects the corrections before the return is transmitted.

(4) Dropping cents and rounding to whole dollars does not constitute a substantive change or alteration to the return unless the amount differs by more than the above tolerances. All rounding should be accomplished in accordance with the instructions in the Form 1040NR tax package.

.03 Missing Form 8453-NR. If the Service determines that a Form 8453-NR is missing, the 1040NR Return Originator must provide the Service with a replacement. A 1040NR Return Originator must also provide a copy of the Form(s) W-2, W-2G, 1099R, and all other attachments to the Form 8453-NR.

.04 *Substitute Form 8453-NR*. If a substitute Form 8453-NR is used, it must be approved by the Service prior to use. See Rev. Proc. 97-54, 1997-50 I.R.B. 8.

SECTION 8. INFORMATION A 1040NR FILER MUST PROVIDE TO THE TAXPAYER

.01 The 1040NR Return Originator must furnish the taxpayer with a complete paper copy of the taxpayer's return (except for multiple return filing as described in section 7.01(5) of this revenue procedure). However, the copy need not contain the social security number of the paid preparer. See Rev. Rul. 78-317, 1978-2 C.B. 335. A complete copy of the taxpayer's return includes:

(1) Form 8453-NR and other paper documents that cannot be magnetically or electronically transmitted, and

(2) a printout of the data portion of the composite return. See section 2.02 of this revenue procedure. The data portion of the composite return can be contained on a replica of an official form or on an unofficial form. However, on an unofficial form, data entries must be referenced to the line numbers on an official form.

.02 The 1040NR Return Originator must advise the taxpayer to retain a complete copy of the return and any supporting material.

.03 The 1040NR Return Originator must advise the taxpayer that an amended return, if needed, must be filed as a paper return and mailed to the Philadelphia Service Center.

.04 The 1040NR Return Originator must, upon request, provide the taxpayer with the date the data portion of the taxpayer's composite return was acknowledged as accepted for processing by the Service.

.05 A 1040NR Return Originator must advise taxpayers that they can call the local IRS TeleTax number to inquire about the status of their tax refund. The 1040NR Return Originator should also advise taxpayers to wait at least three weeks from the acceptance date of the data portion of the composite return before calling the TeleTax number.

.06 If a taxpayer chooses to use an address other than his or her home address on the return, the 1040NR Return Originator must inform the taxpayer that the address on the data portion of the com-

posite return, once processed by the Service, will be used to update the taxpayer's address of record. The Internal Revenue Service uses the taxpayer's address of record for various notices that are required to be sent to a taxpayer's "last known address" under the Internal Revenue Code and for refunds of overpayments of tax (unless otherwise specifically directed by the taxpayer, such as by Direct Deposit).

SECTION 9. DIRECT DEPOSIT OF REFUNDS

.01 The Service will ordinarily process a request for Direct Deposit but reserves the right to issue a paper refund check.

.02 The Service does not guarantee a specific date by which a refund will be directly deposited into the taxpayer's financial institution account. The taxpayer's account must be with a financial institution located in the United States.

.03 Neither the Service nor the Financial Management Service (FMS) is responsible for the misapplication of a Direct Deposit that is caused by error, negligence, or malfeasance on the part of the taxpayer, 1040NR Filer, financial institution, or any of their agents.

.04 A 1040NR Return Originator must:

(1) advise taxpayers of the option to receive their refund by paper check or direct deposit;

(2) not charge a separate fee for Direct Deposit;

(3) accept any Direct Deposit election to any eligible financial institution designated by the taxpayer;

(4) ensure that the taxpayer is eligible to choose Direct Deposit;

(5) verify that the Direct Deposit information requested on Part II of Form 8453-NR was entered correctly and that the information entered is the information transmitted on the data portion of the composite return;

(6) caution the taxpayer that once a data portion of a composite return has been accepted for processing by the Service:

(a) the Direct Deposit election cannot be rescinded;

(b) the Routing Transit Number (RTN) of the financial institution cannot be changed; and

(c) the taxpayer's account number cannot be changed; and

(7) advise the taxpayer that refund information is available by calling the IRS TeleTax number. See section 8.05 of this revenue procedure.

SECTION 10. BALANCE DUE RETURNS

.01 A magnetically or electronically filed balance due return is submitted to the Philadelphia Service Center in the same manner that a refund or zero balance return is submitted. A balance due return is not complete unless and until the Service receives a Form 8453-NR completed and signed by the taxpayer (or by the taxpayer's authorized representative as described in section 7.01(5) of this revenue procedure).

.02 A taxpayer who magnetically or electronically files a balance due return must make a full and timely payment of any tax that is due. Failure to make full payment of any tax that is due on or before April 15, 1998 (for individuals who were employees and received wages subject to U.S. federal income tax withholding), or June 15, 1998 (for individuals who were not employees receiving wages subject to U.S. federal income tax withholding), will result in the imposition of interest and may result in the imposition of penalties.

SECTION 11. ADVERTISING STANDARDS FOR 1040NR FILERS AND FINANCIAL INSTITUTIONS

.01 A 1040NR Filer must comply with the advertising and solicitation provisions of 31 C.F.R. Part 10 (Treasury Department Circular No. 230). This circular prohibits the use or participation in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim. Any claims concerning faster refunds by virtue of magnetically or electronically filing returns must be consistent with the language in official Service publications.

.02 A 1040NR Filer must adhere to all relevant federal, state, and local consumer protection laws that relate to advertising and soliciting.

.03 A 1040NR Filer must not use the Service's name, "Internal Revenue Service," or "IRS" within a firm's name.

.04 A 1040NR Filer must not use improper or misleading advertising in relation to the 1040NR Program (including the time frames for refunds).

.05 A 1040NR Filer using promotional material or logos provided by the Service must comply with all Service instructions pertaining to the promotional materials or logos.

.06 A 1040NR Filer using the Direct Deposit name and logo must comply with the following:

(1) The name "Direct Deposit" will be used with initial capital letters or all capital letters.

(2) The logo/graphic for Direct Deposit will be used whenever feasible in advertising copy.

(3) The color or size of the Direct Deposit logo/graphic may be changed when used in advertising pieces.

.07 Advertising materials must not carry the FMS, IRS, or other Treasury seals.

.08 Advertising for a cooperative 1040NR return project (public/private sector) must clearly state the names of all cooperating parties.

.09 If a 1040NR Filer uses radio or television broadcasting to advertise, the broadcast must be pre-recorded. The 1040NR Filer must keep a copy of the pre-recorded advertisement for a period of at least 36 months from the date of the last transmission or use.

.10 If a 1040NR Filer uses direct mail or fax communications to advertise, the 1040NR Filer must retain a copy of the actual mailing or fax, along with a list or other description of the firms, organizations or individuals to whom the communication was mailed, faxed, or otherwise distributed for a period of at least 36 months from the date of the last mailing, fax, or distribution.

.11 Acceptance to participate in the 1040NR Program does not imply endorsement by the Service or FMS of the software or quality of services provided.

SECTION 12. MONITORING AND SUSPENSION OF A 1040NR FILER

.01 The Service will monitor a 1040NR Filer for conformity with this revenue procedure. Before suspending a 1040NR Filer, the Service may issue a warning letter that describes specific corrective action for deviations from this revenue pro-

cedure. However, the Service can immediately suspend, without notice, a 1040NR Filer from the 1040NR Program. In most circumstances, a suspension from participation in the 1040NR Program is effective as of the date of the letter informing the 1040NR Filer of the suspension.

.02 The Service will monitor the timely receipt of Forms 8453-NR, as well as their overall legibility.

.03 The Service will monitor the quality of the 1040NR Filer's submissions throughout the filing season. The Service will also monitor data portions of composite returns and tabulate rejections, errors, and other defects. If quality deteriorates, the 1040NR Filer may receive a warning from the Service.

.04 The Service will monitor complaints about a 1040NR Filer and issue a warning or suspension letter as appropriate.

.05 The Service reserves the right to suspend a 1040NR Filer from participation in the 1040NR Program for violating any provision of this revenue procedure. Generally, the Service will advise a suspended 1040NR Filer concerning the requirements for reacceptance into the 1040NR Program. The following reasons may lead to a warning letter and/or suspension of a 1040NR Filer from the 1040NR Program (this list is not all-inclusive):

(1) the reasons listed in section 4.08 of this revenue procedure;

(2) deterioration in the format of individual submissions;

(3) unacceptable cumulative error or rejection rate;

(4) untimely received, illegible, incomplete, missing, or unapproved substitute Forms 8453-NR;

(5) stockpiling returns at any time while participating in the 1040NR Program;

(6) failure on the part of a Transmitter to provide a 1040NR Return Originator or Service Bureau with acknowledgment files within five calendar days after receipt from the Service;

(7) significant complaints about a 1040NR Filer's performance in the 1040NR Program;

(8) failure on the part of a 1040NR Filer to ensure that no other entity uses its assigned MTFIN;

(9) having more than one MTFIN for the same business entity at the same loca-

tion (the business entity is generally the entity that reports on its return the income derived from magnetic or electronic filing), unless the Service has issued more than one MTFIN to a business entity;

(10) failure on the part of a 1040NR Filer to cooperate with the Service's efforts to monitor 1040NR Filers and investigate filing abuse;

(11) failure on the part of a 1040NR Filer to properly use the standard/non-standard W-2 indicator;

(12) failure on the part of a Service Bureau or a Transmitter to use its assigned MTFIN when filing returns;

(13) failure on the part of the Transmitter to include a Service Bureau's MTFIN in the transmission of a return submitted by a Service Bureau;

(14) failure on the part of a Service Bureau or a Transmitter to include the 1040NR Return Originator's MTFIN as part of a return that the 1040NR Return Originator submits to the Service Bureau or the Transmitter;

(15) violation of the advertising standards described in section 11 of this revenue procedure;

(16) failure to maintain and make available records as described in sections 5.11(4) and (5) of this revenue procedure;

(17) accepting a tax return for magnetic or electronic filing either directly or indirectly from a firm, organization, or individual (other than the taxpayer who is submitting his or her return) that is not in the 1040NR Program;

(18) submitting information on the data portion of the composite return that is not identical to the information on the Form 8453-NR; or

(19) failure to timely submit a revised Form MAR-8980 notifying the Service of changes described in section 4.02 or 4.03 of this revenue procedure.

.06 The Service may list in the Internal Revenue Bulletin, district office listings, district office newsletters, on the EFS Bulletin Board, or in other appropriate publications, the name of any entity that is suspended from the 1040NR Program and the effective date of that suspension.

.07 If a participant is suspended from participating in the 1040NR Program, the period of suspension includes the remainder of the calendar year in which the suspension occurs plus the next two calendar

years. A suspended participant may submit a new application for the application period immediately preceding the end of the suspension.

SECTION 13. ADMINISTRATIVE REVIEW PROCESS FOR DENIAL OF PARTICIPATION IN THE 1040NR PROGRAM

.01 An applicant that has been denied participation in the 1040NR Program has the right to an administrative review. During the administrative review process, the denial of participation remains in effect.

.02 In response to the submission of a Form MAR-8980, the Project Office will either (1) accept an applicant into the 1040NR Program, or (2) issue a proposed letter of denial that explains to the applicant why the Service proposes to reject the application to participate in the 1040NR Program.

.03 An applicant that receives a proposed letter of denial may mail or deliver, within 30 calendar days of the date of the proposed letter of denial, a written response to the Project Office. The applicant's response must address the Project Office's explanation for proposing the denial to participate.

.04 Upon receipt of an applicant's written response, the Project Office will reconsider its proposed letter of denial. The Project Office may (1) withdraw its proposed letter of denial and admit the applicant into the 1040NR Program, or (2) finalize the proposed denial letter.

.05 If an applicant receives a final denial letter from the Project Office, the applicant is entitled to an appeal, in writing, to the Director of Practice.

.06 The appeal must be mailed or delivered to the Project Office within 30 calendar days of the date of the denial letter. An applicant's written appeal must contain a detailed explanation, with supporting documentation, of why the denial should be reversed.

.07 The Project Office, upon receipt of a written appeal to the Director of Practice, will forward to the Director of Practice its file on the applicant and the materials described in section 13.06 of this revenue procedure. The Project Office will forward these materials to the Director of Practice within 15 calendar days of receipt of the applicant's written appeal.

.08 Failure to respond within either of the 30-day periods described in sections 13.03 and 13.06 of this revenue procedure irrevocably terminates an applicant's right to an administrative review or appeal.

.09 If an application for participation in the 1040NR Program is denied, the applicant is ineligible to submit a new application for two years from the application date of the denied application.

SECTION 14. ADMINISTRATIVE REVIEW PROCESS FOR SUSPENSION FROM THE 1040NR PROGRAM

.01 A 1040NR Filer that has been suspended from participation in the 1040NR Program has the right to an administrative review. During the administrative review process, the suspension remains in effect.

.02 If a 1040NR Filer receives a suspension letter, the 1040NR Filer may mail or deliver, within 30 calendar days of the date of the suspension letter, a detailed written explanation, with supporting documentation, of why the suspension letter should be withdrawn. This written response should be sent to the Project Office.

.03 Upon receipt of the 1040NR Filer's written response, the Project Office will reconsider its suspension of the 1040NR Filer. The Project Office may either (1) withdraw its suspension letter and reinstate the 1040NR Filer, or (2) affirm the suspension.

.04 If a 1040NR Filer receives a letter affirming the suspension, the 1040NR Filer is entitled to an appeal, in writing, to the Director of Practice.

.05 The appeal must be mailed or delivered to the Project Office within 30 calendar days of the date of the suspension letter. The 1040NR Filer's written appeal must contain detailed reasons, with supporting documentation, for reversal of the suspension.

.06 The Project Office, upon receipt of a written appeal to the Director of Practice, will forward to the Director of Practice its file on the 1040NR Filer and the material described in section 14.05 of this revenue procedure. The Project Office will forward these materials to the Director of Practice within 15 calendar days of the receipt of a 1040NR Filer's written request for appeal.

.07 Failure to appeal within either of the 30-day periods described in sections 14.02 and 14.05 of this revenue procedure irrevocably terminates a 1040NR Filer's right to an appeal.

SECTION 15. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 97-28, 1997-1 C.B. 691, is superseded.

SECTION 16. EFFECTIVE DATE

This revenue procedure is effective May 20, 1998.

SECTION 17. PROJECT OFFICE INFORMATION

All questions regarding this revenue procedure should be directed to:

Internal Revenue Service
Philadelphia Service Center
ATTN: DP-115-Magnetic Media
Project Office
11601 Roosevelt Blvd.
Philadelphia, PA 19154
U.S.A.

The telephone number of this office is (215) 516-7533 (not a toll-free number) or 800-829-6945 (a toll-free number).

Part IV. Items of General Interest

Announcement 98-45

Optional Method of Reporting Make-Up Contributions by Employers Subject to the Uniformed Services Employment and Reemployment Rights Act (USERRA)

Background	<p>The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), P. L. 103-353, requires that an employee who is absent from work because of military service be permitted, on return to work, to make up certain contributions to pension plans that the employee could have made if actually employed during the period of military service.</p> <p>This announcement provides an alternative method for employers to report these USERRA make-up contributions to employees.</p>
Current reporting requirement	<p>Currently, employers must separately report these prior-year contributions to the employee on Form W-2. The Instructions for Form W-2 require employers to report in box 13:</p> <ul style="list-style-type: none">• The USERRA make-up contributions using codes D through H and S to identify the plan,• The years to which the contributions relate, and• The amounts. <p>Employers may continue to report USERRA contributions on Form W-2.</p>
New optional reporting method	<p>Some employers have reported difficulties with their payroll systems being able to accommodate the USERRA reporting on Form W-2. Therefore, rather than report USERRA make-up contributions in box 13 of Form W-2, an employer may provide a separate statement to its employees showing USERRA make-up contributions. The separate statement must identify:</p> <ul style="list-style-type: none">• The type of plan,• The years to which the contributions relate, and• The amounts. <p>Note: <i>Contributions to pension plans for the current year will continue to be reported on Form W-2.</i></p>
Additional information	<p>The 1998 Instructions for Form W-2 contain a discussion of the reporting requirements for contributions to pension plans.</p>

Information Reporting Seminars for Magnetic Media/Electronic Filing

Announcement 98-49

Representatives from the Martinsburg Computing Center, Information Returns Branch, will conduct seminars in 29 cities during the months of August, September, and October. The seminar format will be geared toward magnetic media/electronic filers. Major changes were made to the record format for TY98 due to the century date change, legislative changes, and the creation of new forms. One major change is the expansion of the record length from 420 positions to 750 positions.

A representative of the Social Security Administration will immediately follow the IRS/MCC representative, during the morning session, to discuss magnetic media reporting and electronic filing specifications of Forms W-2/W-3. There may be an IRS District Office session at some sites in the afternoon.

Following is a schedule of seminar sites and dates, as well as telephone numbers of the Internal Revenue Service office closest to the sites. Please contact the appropriate office after July 10 for the exact location and times. **The agenda for the day has also been included for your convenience.**

Internal Revenue Service Martinsburg Computing Center Information Reporting Seminar Schedule 1998			
<i>CITY</i>	<i>DATE</i>	<i>PHONE</i>	<i>FAX</i>
Atlanta, GA	October 1	404/331-3808	
Baltimore, MD	August 19	410/962-2402	
Billings, MT	August 25	406/441-1042	
Buffalo, NY	August 27	716/686-4777	
Boston, MA	September 15	617/565-4325	617/565-1379
Charlotte, NC	September 22	336/378-2026	
Chicago, IL	October 1	312/886-5544	
Cincinnati, OH	September 15	513/684-2400	
Dallas, TX	September 1	214/767-3755	
Denver, CO	September 3	303/446-1661	
Hartford CT	September 1	860/240-4149	
Houston, TX	September 24	713/209-4178	
Indianapolis, IN	September 29	317/226-6543	
Los Angeles, CA	September 30	213/894-4574	
Milwaukee, WI	August 27	414/297-3302	
Minneapolis, MN	September 24	612/290-3320 x231	612/290-4231
Nashville, TN	September 17	615/736-2280	
New Orleans, LA	September 23	504/558-3011	
New York, NY	September 17	212/436-1023	
Oklahoma City, OK	September 22	405/297-4125	
Omaha, NE	August 27	402/221-3501	
Pittsburgh, PA	September 3	412/395-6504	
Richmond, VA	September 29	804/771-8048	
Salt Lake City, UT	September 1	801/799-6873	
San Francisco, CA	October 1	510/637-2482	
Seattle, WA	August 25	206/220-5803	206/220-5551
Spokane, WA	September 22	206/220-5803	206/220-5551
St. Louis, MO	September 17	314/539-2161	
Tampa, FL	September 24	904/232-2514	

AGENDA

MORNING SESSION

IRS/MARTINSBURGH COMPUTING CENTER

9:00a	Welcome
	IRS-Magnetic Media and Electronic Filing of Forms 1099, 1098, 5498, and W-2G.
10:30a	Break
10:45a	SSA-Magnetic Media and Electronic Filing of Forms W-2 and W-3.
12:30p	Lunch

AFTERNOON SESSION

IRS/DISTRICT OFFICE PRESENTATION

1:30p	(This is optional and some districts may not plan a presentation.)
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Foundations Status of Certain Organizations

Announcement 98-50

The following organizations have failed to establish or have been unable to maintain their status as public charities or as operating foundations. Accordingly, grantors and contributors may not, after this date, rely on previous rulings or designations in the Cumulative List of Organizations (Publication 78), or on the presumption arising from the filing of notices under section 508(b) of the Code. This listing does *not* indicate that the organizations have lost their status as organizations described in section 501(c)(3), eligible to receive deductible contributions.

Former Public Charities. The following organizations (which have been treated as organizations that are not private foundations described in section 509(a) of the Code) are now classified as private foundations:

Rocky Mountain Harvest Inc., Highlands Ranch, CO
Rocky Mountain Team Fund Inc., Salt Lake City, UT
Roebling Gateway Park Corporation, Covington, KY
Rogue Theatre Inc., Orlando, FL
Roger Mills County Health Care Foundation, Cheyenne, OK
ROJA Productions Inc., Suitland, MD
Root and the Branch Inc., South Charleston, WV
Rootin on the Ribber, Memphis, TN
Roscoe Lyons Tackle Football Inc., Roscoe, IL
Roscommon Area Historical Society, Inc., Roscommon, MI
Rosebud Youth Home Inc., Hamilton, MO
Rosemary F. Dybwad International Fellowship Trust, Olney, MD
Roswell Vietnam War Memorial Committee, Inc., Roswell, GA
Roswell Village Theater Inc., Roswell, GA
Rotary Plaza of San Jose Inc., San Jose, CA
Round Rock Band Boosters Inc., Round Rock, TX
Royal Garden Club by the Bay in Perth Amboy, Perth Amboy, NJ
Royall Noyse, Inc., Centerville, MA
Ruach Simcha Spirit of Joy Ministry, Cantonment, FL

Rushmore Presidential Institute, Rapid City, SD
Rushmore State Games Inc., Aberdeen, SD
Russell House Associates Inc., Baltimore, MD
Russian-American Independent Media Association, McLean, VA
Russian Peoples Relief Project Inc., Venice, FL
Rutherford Junior Football Association, Inc., Rutherford, NJ
S A F E, Elmhurst, IL
S-T-R-E-T-C-H Ministries Inc., Thomasville, GA
Sabetha Housing Corporation, Sabetha, KS
Sabine Volunteer Fire Department Inc., Kilgore, TX
Safe Kids Inc., Wilmington, DE
Sage Foundation for Better Education, Inc., Shrewsbury, MA
Saginaw Christmas in July Inc., Saginaw, MI
Saints Child Care Center Inc., Taylors, SC
Salina Saline County War Memorial Inc., Salina, KS
Salt and Light Foundation, Salt Lake City, UT
Samaritan Resource Center Inc., Chicago, IL
Samaritan Salt Factory Inc., Miami, FL
Samaritans Inc., Raleigh, NC
Samuel Bronston Archives and Film Academy, Houston, TX
Samuel J. Lilly IV Brotherhood Association Inc., Augusta, GA
San Angelo Rescue Dog, San Angelo, TX
San Antonio Health Care Foundation, San Antonio, TX
San Antonio Hispanic Amateur Radio Association, San Antonio, TX
San Antonio Kids-N-Critters, San Antonio, TX
San Antonio School Business Promise Inc., San Antonio, TX
San Saba County Police Activities League Inc., San Saba, TX
Sanctuary Project Inc., Baltimore, MD
Sankofa Intercultural Programs Corporation, Atlanta, GA
Sarah F. Myles Foundation, Dayton, OH
Saratoga Shakespeare Festival, Inc., Brooklyn, NY
SAT RA Society Inc., Washington, DC
Sav-A-Life of Covington Inc., Andalusia, AL

Savannah-Chatham Commission on Children and Youth Inc., Savannah, GA
Save America-Educate Our Children, Denver, CO
Save Cape May Harbor Inc., Cape May, NJ
Save Our Children Coalition, Farmville, VA
Save Our Children Inc., Atlanta, GA
Save Our Spring River Inc., Hardy, AR
Save the Salt Inc., Brigham City, UT
Saxe Gotha Historical Society, Columbia, SC
SBOBC, Florissant, MO
Scattered Site Neighborhood Family Housing Resident Council, Detroit, MI
School District No. 20 Education Foundation, Colorado Springs, CO
School Dropout Prevention Center a Not for Profit Corporation, Dallas, TX
School Kids Club Inc., Circleville, OH
Schools Out Adventure Club, Eagle, NE
Schuyler Community Center on Waltons Mountain Museum, Schuyler, VA
Scioto River Valley Federation, Delaware, OH
Scotland Neck Coordinating Committee, Scotland Neck, NC
Scleroderma Federation Gulf Coast Affiliate, Cape Coral, FL
Scottie Pippen Youth Foundation, Little Rock, AR
Scroll People Inc., Chicago, IL
Search and Rescue K-9 of Minnesota, Minnetonka, MN
Second Chance Horses Inc., Dallas, TX
Second District Volunteer Fire Department, Mountain City, TN
Second Time Around Catch a Star Foundation, Chicago, IL
Second Time Arounders Marching Band Inc., St. Petersburg, FL
Sedona Hopi Show Inc., West Sedona, AZ
Seguin-Guadalupe County Heritage Museum Inc., Seguin, TX
Seguin Police Activity League, Seguin, TX
Selden Park Committee for Progress Inc., Brunswick, GA
Self Advancement & Recovery Assistance Inc., Decatur, GA
Senior Activity Center of Port St. Lucie Florida Inc., Port St. Lucie, FL
Senior Citizens Awareness Council LTD, Longmont, CO
Senior Help Group Inc. Butler, IN

Senior Peer Counseling Inc., Oklahoma City, OK
 Seniors Celebration Inc., Naples, FL
 Seniors for Seniors Inc., Decatur, GA
 Sense America, St. Louis, MO
 Serbian American National Information Network Inc., Lansing, IL
 Serendipity House Day Care, Salt Lake City, UT
 Serenity Caring Homes Inc., Montgomery, MN
 Servicios Hispanos Inc., Herndon, VA
 Seventy-Second Benefit Fund Inc., Jackson, MI
 Shade Tree, Inc., Zarephath, NJ
 Shakamak Area Recreation Association Incorporated, Jasonville, IN
 Share Inc., Fulton, MD
 Share Pregnancy & Infant Loss Support Inc., Tequesta, FL
 Shared Heartbeats Inc., Oklahoma City, OK
 Sharing His Love Ministries, Stanley, NC
 Sharon Smyth Educational Foundation, Mesa, AZ
 Sharonville Business Association Scholarship Fund, Cincinnati, OH
 Sheet Metal Generations Foundation Inc., Washington, DC
 Shekinah Refuge Inc., Sapulpa, OK
 Shelbyville Dixie Youth Baseball League Inc., Shelbyville, TN
 Shelter Helpers Inc., Gretna, LA
 Sheltering Harbour, Houston, TX
 Shenandoah Center for Global Food Issues, Swoope, VA
 Shepherds Center of Charleston WV Inc., Charleston, WV
 Shepherds Foundation of Comfort Inc., Huggins, MO
 Sheridan Community Development Corporation, Philadelphia, PA
 Sheriff Mike Sheahan Youth Athletic Foundation, Chicago, IL
 Shin Sai, Madeville, LA
 Shomrei Adamah, Philadelphia, PA
 Shooters Baseball Club, Oak Forest, IL
 Shooting for the Stars Inc., Bryn Mawr, PA
 Shore Post Polio Support Group an Unincorporated Association, Red Bank, NJ
 Shore Veterans Foundation Inc., Middletown, NJ
 Shreveport-Bossier Summer Spectacular Fine Arts Camp Inc., Bossier City, LA
 S I A S T Foundation, Overland Park, KS
 SIBF Foundation, Atlanta, GA
 Sibyl Temple Foundation Inc., Vestavia Hills, AL
 Sickie Cell Anemia Rehabilitation and Education Program, Lake Charles, LA
 Side by Side Community School, Inc., Wilton, CT
 Sigur Incorporated Residential Care, New Orleans, LA
 Silver Foxes Theatrical Troupe, Streamwood, IL
 Silver Lake-Hartford Housing Revitalization Corporation, Providence, RI
 Simon Carter Musicians Emergency Fund Inc., Atlanta, GA
 Sine Missions International Inc., Rockford, IL
 Single Action Theatre Co., Chicago, IL
 Siouxland Amateur Boxing Club Inc., Sioux Falls, SD
 Sir Friendly C Inc., Louisville, KY
 Sister City Ministry Inc., Duluth, MN
 Sisters in Recovery Inc., Tampa, FL
 SJC Boxing Club Inc., Fort Myers, FL
 Skyfyr Unlimited, Rio Rancho, NM
 Skyhook Emergency Response Corporation, Meridian, MS
 Slam Foundation, Nashville, TN
 Sleepy Eye Area Historical Soc., Sleepy Eye, MN
 Slidell Youth Football Association Inc., Sidell, LA
 Slil Foundation, Dallas, TX
 Small World Inc., Baton Rouge, LA
 Smarty Pants Educational Services Inc., Jackson, MS
 Smith County Adult Protective Services Advisory Board Inc., Tyler, TX
 Smith County Organization for Premium Education Inc., Tyler, TX
 Smith House of Hot Spring County Inc., Malvern, AR
 Smithville Boosters Club, Smithville, OH
 Smyrna High School Band Boosters, Smyrna, TN
 Snow on the Roof, Bloomington, MN
 Soccer Foundation Inc., Wayne, NJ
 Social Development Foundation for Argentina Inc., Washington, DC
 Socialites Inc., Fort Wayne, IN
 Sociedad Para el Estudio de la Traducccion y la Interpretacion In., Viejo San Juan, PR
 Society for Cultural Awareness Inc., Cincinnati, OH
 Society for the Preservation of Oriental Forkloric Dance & Culture, Gainesville, FL
 Society of Physicians for Reproductive Choice and Health Inc., Franklin Lakes, NJ
 Society of Trauma Nurses, Washington, DC
 Soliloquy Project Inc., Dallas, TX
 Somali Relief & Community Services Inc., Atlanta, GA
 Somali Relief Federation, Washington, DC
 Sombre Reptile Art and Music Development Center Inc., Atlanta, GA
 Somebody Cares Ministries, Muskegon, MI
 Somethings Happening Inc., Houston, TX
 Sonlight Ministries, Fort Collins, CO
 Sonny Parker Youth Foundation Inc., Chicago, IL
 Sons of Orpheus-the Male Chorus of Tucson, Tucson, AZ
 Sonshine Youth Services Inc., Wintersville, OH
 Soroco Baseball Softball, Yampa, CO
 SOS Scholarship Opportunities for Students Inc., Belle Glade, FL
 Source of Life Ministry Inc., West Helena, AR
 South Africa Development Fund, Jackson, MS
 South African Rural Development Support Program Inc., Augusta, GA
 South Carolina Academy of Authors Inc., Columbia, SC
 South Carolina Ki Society Inc., Greenville, SC
 South Central Child Care Resource and Referral Inc., Janesville, WI
 South Central Hope 2 Inc., Brentwood, TN
 South Central Wisconsin Division Incorporated, Madison, WI
 South Dakota Brain Injury Assoc., Tyndall, SD
 South Dakota Womens Network Foundation Inc., Sioux Falls, SD
 South Delta Regional Housing Authority Resident Council Inc., Greenville, MS
 South Florida Youth Soccer Association Inc., Miami, FL
 South Haven Girls Softball League, Portage, IN
 South Jersey Work on Waste Inc., Collingswood, NJ
 South of 8 Mile, Detroit, MI
 South Pacific-American Cultural Exchange, Denver, CO

South Terrell Action Group Inc., Terrell,
TX
South Texas Audio Reader, Austin, TX
South Texas Beat the Heat Inc., Universal
City, TX
Southeast Association for the
Environment Inc., Baltimore, MD
Southern Appalachian Community
Development Corporation, Boone, NC
Southern End Community Association,
Quarryville, PA
Southern Justice Institute, Durham, NC
Southern Pain Society, Greenville, SC
Southern Portage Non Profit Housing
Inc., Mogadore, OH

Southern Regional Youth Institute, Lake
Charles, LA
Southwest Child Development Institute
Inc., Austin, TX
Southwest Creative Dance Center,
Lakewood, CO
Southwest Florida All American Soap
Box Derby Inc., Fort Myers, FL
Southwest Philadelphia Presbytery
Apartments Inc., Villanova, PA
Southwest Range & Wildlife Foundation,
Austin, TX

If an organization listed above submits
information that warrants the renewal of
its classification as a public charity or as a

private operating foundation, the Internal
Revenue Service will issue a ruling or de-
termination letter with the revised classi-
fication as to foundation status. Grantors
and contributors may thereafter rely upon
such ruling or determination letter as pro-
vided in section 1.509(a)-7 of the Income
Tax Regulations. It is not the practice of
the Service to announce such revised clas-
sification of foundation status in the Inter-
nal Revenue Bulletin.

Announcement of the Consent Voluntary Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries From Practice Before the Internal Revenue Service

Under 31 Code of Federal Regulations, Part 10, an attorney, certified public accountant, enrolled agent, or enrolled actuary, in order to avoid the institution or conclusion of a proceeding for his disbarment or suspension from practice before the Internal Revenue Service, may offer his consent to suspension from such practice. The Director of Practice, in his discretion, may suspend an attorney, certified public accountant, enrolled agent, or enrolled actuary in accordance with the consent offered.

Attorneys, certified public accountants, enrolled agents, and enrolled actuaries are prohibited in any Internal Revenue Ser-

vice matter from directly or indirectly employing, accepting assistance from, being employed by, or sharing fees with any practitioner disbarred or suspended from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents, and enrolled actuaries to identify practitioners under consent suspension from practice before the Internal Revenue Service, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as attorney, certified public ac-

countant, enrolled agent, or enrolled actuary, and date or period of suspension. This announcement will appear in the weekly Bulletin at the earliest practicable date after such action and will continue to appear in the weekly Bulletins for five successive weeks or for as many weeks as is practicable for each attorney, certified public accountant, enrolled agent, or enrolled actuary so suspended and will be consolidated and published in the Cumulative Bulletin.

The following individuals have been placed under consent suspension from practice before the Internal Revenue Service:

Name	Address	Designation	Date of Suspension
Soulides, James C.	Berwyn, IL	CPA	January 1, 1998 to June 30, 2000
Bujan, Frank	Orland Park, IL	CPA	January 1, 1998 to June 30, 2000
Field, Edward L.	Topeka, KS	CPA	January 27, 1998 to April 26, 1999
Cito, Paul J.	West Orange, NJ	CPA	February 21, 1998 to May 20, 1999
Sproul, Jerry	Idaho Falls, ID	CPA	February 25, 1998 to October 24, 1998
Hunt, Russell	Pauls Valley, OK	CPA	March 1, 1998 to June 30, 1998
Oertli, William	Rochester, MN	CPA	March 4, 1998 to March 3, 2000
Maynard, Richard	Reno, NV	CPA	March 10, 1998 to March 9, 2002
McDonald, Bill	Reno, NV	Attorney	March 10, 1998 to March 9, 2002
Komendant, Howard	Passaic, NJ	CPA	March 10, 1998 to September 9, 1998
Kwiatek, Fabian A.	Silver Spring, MD	CPA	March 16, 1998 to March 15, 2001
Brown, Patricia	DeKalb, IL	CPA	March 16, 1998 to September 15, 1999
Marshall, Robert	Woodland Hills, CA	Attorney	March 18, 1998 to November 17, 2000
Baloun, Donald J.	Palatine, IL	CPA	March 25, 1998 to November 24, 1998
Goldman, Harold J.	Summit, NJ	CPA	March 27, 1998 to September 26, 1998
Garner, Darrow C.	Austin, TX	CPA	April 1, 1998 to March 20, 2000
Klein, Charles U.	Dunedin, FL	CPA	April 1, 1998 to September 30, 1999
Morgan, Robert I.	Brownsville, VT	Attorney	April 2, 1998 to April 1, 2000
Teel, Jeffrey J.	Hollis, NH	CPA	April 2, 1998 to April 1, 2001
Hancock, Randall M.	Gardendale, AL	CPA	Indefinite from April 13, 1998
Allison Jr., Dale A.	Blairsville, GA	Attorney	April 15, 1998 to July 14, 2001
Gogel, William A.	North Hills, NY	Attorney	April 21, 1998 to April 20, 2002
Bose, Gautem	Oak Brook, IL	CPA	May 1, 1998 to April 30, 2001
Woods, W. Rex	Belleville, KS	CPA	May 1, 1998 to January 31, 1999
Monahan, John	Seattle, WA	Attorney	May 1, 1998 to April 30, 2001
Swartz, Lewis A.	Syosset, NY	CPA	May 1, 1998 to April 30, 2002

Name	Address	Designation	Date of Suspension
Eckert, Bruce G.	Cleveland, OH	CPA	May 2, 1998 to May 1, 1999
Rozanski, Lawrence J.	Pittsburg, PA	CPA	June 1, 1998 to May 30, 2000
Mangum, Carl E.	Morris Plains, NJ	CPA	July 1, 1998 to December 31, 1999
Reeser, Richard M.	Thornton, CO	CPA	July 1, 1998 to September 30, 1999
Bailey, Thomas O.	Dallas, TX	CPA	July 1, 1998 to June 30, 2001
Johnson, Kenneth E.	Forest Lake, MN	CPA	July 1, 1998 to November 30, 1999
Deren, Joseph	Lackawanna, NY	Attorney	July 1, 1998 to June 30, 2001

Announcement of the Expedited Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries From Practice Before the Internal Revenue Service

Under title 31 of the Code of Federal Regulations, section 10.76, the Director of Practice is authorized to immediately suspend from practice before the Internal Revenue Service any practitioner who, within five years from the date the expedited proceeding is instituted, (1) has had a license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause; or (2) has been convicted of any crime under title 26 of the United States Code or, of a felony under title 18 of the United States Code involving dishonesty or breach of trust.

Attorneys, certified public accountants, enrolled agents, and enrolled actuaries are

prohibited in any Internal Revenue Service matter from directly or indirectly employing, accepting assistance from, being employed by, or sharing fees with, any practitioner disbarred or suspended from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents, and enrolled actuaries to identify practitioners under expedited suspension from practice before the Internal Revenue Service, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as attorney, certified public accountant, en-

rolled agent, or enrolled actuary, and date or period of suspension. This announcement will appear in the weekly Bulletin at the earliest practicable date after such action and will continue to appear in the weekly Bulletins for five successive weeks or for as many weeks as is practicable for each attorney, certified public accountant, enrolled agent, or enrolled actuary so suspended and will be consolidated and published in the Cumulative Bulletin.

The following individual has been placed under suspension from practice before the Internal Revenue Service by virtue of the expedited proceeding provisions of the applicable regulations:

Name	Address	Designation	Date of Suspension
McDonald, Milton	Stone Mountain, GA	Attorney	Indefinite from February 24, 1998
Parsons, Gary D.	Chattanooga, TN	CPA	Indefinite from February 24, 1998
Buchanan, Steven	Phoenix, AZ	Attorney	Indefinite from February 24, 1998
Caplan, Alan	San Francisco, CA	Attorney	Indefinite from February 24, 1998
Delany, R. Emmet	Ridgefield, CT	Attorney	Indefinite from February 24, 1998
Hirsch, Sheldon	Brooklyn, NY	CPA	Indefinite from February 24, 1998
Newman, Peter R.	Syossett, NY	Attorney	Indefinite from February 24, 1998
Land, Gary	Fayetteville, AR	Enrolled Agent	Indefinite from February 24, 1998
Hunt, William D.	Tulsa, OK	Attorney	Indefinite from February 24, 1998
Hamilton, Robert	Corpus Christie, TX	Attorney	Indefinite from February 24, 1998
Rabinowitz, Emile	Minnetonka, MN	Enrolled Agent	Indefinite from February 24, 1998
McCaffrey, Michael	Wheaton, IL	CPA	Indefinite from February 24, 1998
Eisenstein, Joel	St. Charles, MO	Attorney	Indefinite from February 24, 1998

Name	Address	Designation	Date of Suspension
Cannavo Jr., Joseph S.	St. Louis, MO	Attorney	Indefinite from February 24, 1998
Tilker, Robert M.	Fairfax, VA	CPA	Indefinite from February 24, 1998
Toms, James H.	Hendersonville, NC	Attorney	Indefinite from February 24, 1998
Everett, Kenneth	New York, NY	Attorney	Indefinite from February 24, 1998
Frederick, Charles	Elk Grove	Enrolled Agent	Indefinite from March 13, 1998
Artho, David	Lubbock, TX	CPA	Indefinite from March 18, 1998
Seale, Forrest I.	San Antonio, TX	CPA	Indefinite from March 18, 1998
Yancey, Quinton E.	Stephens City, VA	CPA	Indefinite from March 18, 1998
Hunnicut, Benjamin	Reseda, CA	CPA	Indefinite from March 18, 1998
Finkel, Merle	Beverly Hills, CA	CPA	Indefinite from March 18, 1998
Mullay, Carl P.	Swoyersville, PA	CPA	Indefinite from March 18, 1998
Cunning, Dennis A.	Molalla, OR	CPA	Indefinite from March 18, 1998
Adamson, Steven A.	Nampa, ID	Attorney	Indefinite from April 14, 1998
Bowman, David W.	Colorado Springs, CO	Attorney	Indefinite from April 21, 1998
Beezley, Jack L.	Dallas, TX	Attorney	Indefinite from April 21, 1998
Cunningham, Andrew	Hatfield, PA	CPA	Indefinite from April 28, 1998
Palmquist, Craig S.	Seattle, WA	Attorney	Indefinite from April 21, 1998
Ross, Mark J.	Columbus, OH	Attorney	Indefinite from April 21, 1998
Madoch, Lawrence	Elgin, IL	CPA	Indefinite from April 21, 1998
Taylor, George M.	Springfield, IL	Attorney	Indefinite from April 21, 1998
Casey, Kenneth J.	Corte Madera, CA	CPA	Indefinite from April 21, 1998
Akolt III, John P.	Denver, CO	Attorney	Indefinite from April 21, 1998
Dowdy, Frank	Huntsville, AL	CPA	Indefinite from April 28, 1998
Eckert, Bruce G.	Cleveland, OH	CPA	May 2, 1998 to May 1, 1999
Rozanski, Lawrence J.	Pittsburgh, PA	CPA	June 1, 1998 to May 30, 2000
Mangum, Carl E.	Morris Plains, NJ	CPA	July 1, 1998 to December 31, 1999
Reeser, Richard M.	Thornton, CO	CPA	July 1, 1998 to September 30, 1999
Bailey, Thomas O.	Dallas, TX	CPA	July 1, 1998 to June 30, 2001
Johnson, Kenneth E.	Forest Lake, MN	CPA	July 1, 1998 to November 30, 1999
Deren, Joseph	Lackawanna, NY	Attorney	July 1, 1998 to June 30, 2001

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it ap-

plies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in law or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C.—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.

E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contribution Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign Corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.

PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statements of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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